IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

**THURSDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND SIX**

PRESENT
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.12101 of 1997

Between:

1.Sanikommu Tirupati Reddy and another.

..... PETITIONERS

AND

**1.State of A.P., rep. by Secretary,
Social Welfare, Secretariat, Hyderabad and 3 others.**

.....RESPONDENTS

The Hon'ble Sri Justice Nooty Ramamohana Rao

Writ Petition No.12101 of 1997

Order:

There was no representation on behalf of the writ petitioners when this Writ Petition came up for hearing on the previous occasion, i.e., on 20-11-2006. Hence, the matter was directed to be posted today under the caption

'for dismissal'. Unfortunately, even today, there is no representation on behalf of the writ petitioners.

The writ petitioners, two in number, are challenging the validity of the declaration under Section 6 of the Land Acquisition Act published by the second respondent-Collector on 25th March, 1996, proposing to acquire the land admeasuring Ac.7.69 cents situated in various survey numbers of A.Koduru Village in Bandi Atmakur Mandal of Kurnool District.

The claim of the writ petitioners is that the land belonging to them, situated in Sy.Nos.259/B2 and 262/A, is also forming part of the Ac.7-69 cents of land, proposed to be acquired.

The ostensible purpose of this compulsory acquisition resorted to by the State is for providing house sites to Scheduled Castes and other weaker sections of the Village. It is interesting to notice that the notification under Section 4(1) of the Act has been published on 25th March, 1996, and the declaration under Section 6 of the Act was also published on the same day. Such an exercise is wholly impermissible. The respondents have also invoked the powers available under sub-section 4 of Section 17 to dispense with the enquiry under Section 5-A of the Act. The public purpose, for which the lands are sought to be acquired, is not one such, which cannot brook the delay of few months for conducting the enquiry under Section 5-A of

the Act.

The petitioners have specifically asserted that the State had resorted to acquisition of lands for providing house sites on two previous occasions but have not utilized the entire extent of land so acquired, and that they are small and marginal farmers from whom, normally, the State does not prefer to acquire the lands. The writ petitioners have also asserted that the State, as a policy, does not acquire the wetlands for the purpose of providing house sites to the weaker sections, and that there are several other dry lands belonging to the Government, which are available in the village, but they have not been contemplated for conversion as house sites for eventual distribution in favour of the weaker sections. Further, the writ petitioners have also asserted that because of the animosity of the Sarpanch of the village towards the writ petitioners, their lands have been got included in the proposal for acquisition though their lands are ill-suited and are not essentially required by the State for the purpose of providing the house sites.

Perhaps, the truth or otherwise of these assertions could have been sorted out, if only an enquiry under Section 5-A of the Act has been conducted. Since the writ petitioners are still continuing in possession of the lands in question, I consider it appropriate that the respondents be directed to conduct an enquiry under Section 5-A of the Act before proceeding further, pursuant to the notification issued

by them under Section 4(1) of the Land Acquisition Act on 25th March, 1996.

I, therefore, quash the declaration under Section 6 of the Act issued on 25th March, 1996, and direct the respondents to conduct an enquiry under Section 5-A of the Act, within a period of three months, by providing a fair and reasonable opportunity to the writ petitioners to establish their claims for deletion of their lands from the proposed acquisition, and take a decision thereafter.

With this observation, the Writ Petition stands disposed of. No costs.

(Nooty Ramamohana Rao, J)

23rd November, 2006

LUR